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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,416	03/31/2004	Egbert A. Von Jakusch	54567USA1A.013	7900
32692	7590	08/10/2006	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			BOGART, MICHAEL G	
PO BOX 33427			ART UNIT	PAPER NUMBER
ST. PAUL, MN 55133-3427			3761	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,416

Applicant(s)

VON JAKUSCH ET AL.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/18/01; 6/12/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

Applicant's election with traverse of group I in the reply filed on 24 May 2006 is acknowledged. The traversal is on the ground(s) that groups I-III are so interrelated that a search of one group of claims will reveal art to the other. This is not found persuasive because the scope of the search for each of the three groups is different. For example, a search for the polydimethylsiloxane of group I is not required in a search for groups II and III. A search for the absorbent article structure of group II is not required in a search of group I. A search for the photo initiator of group III is not required for groups I and II.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 7, the line "selected from of an acrylate" is awkwardly phrased; e.g., after "from" delete "of". Appropriate correction is required.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

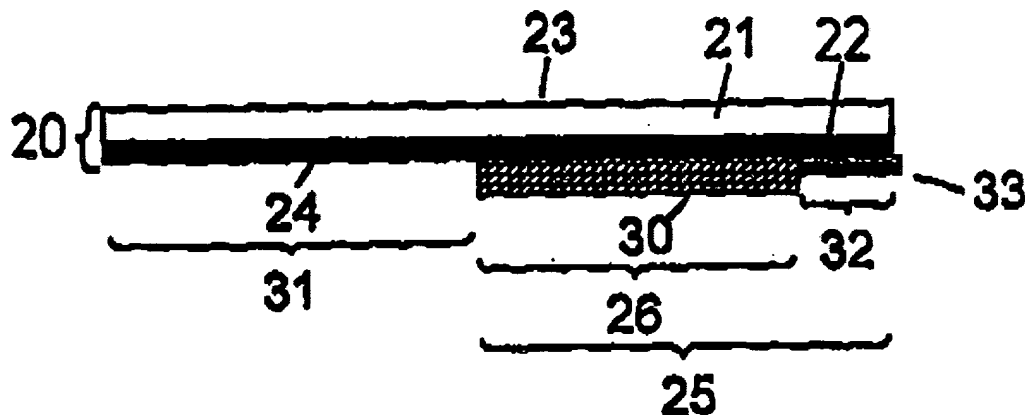
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 1-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tuschy *et al.* (WO 96/21413 A1, hereinafter "Tuschy") in view of Nguyen *et al.* (US 5,616,629 A; hereinafter "Nguyen") and Newman *et al.* (US 3,716,437; hereinafter "Newman").

Regarding claim 1, Tuschy teaches an adhesive tape (20) comprising a fibrous nonwoven layer (21) of fibers with a silicone release coating on one surface (23) and a pressure-sensitive adhesive layer (24) on the opposite surface (22)(page 5, lines 17-33; col. 6, lines 25-37)(figure 2, *infra*).



Tuschy does not disclose the specific type of silicone coating or that the nonwoven material is plastic.

Newman teaches a thermoplastic nonwoven and film laminate substrate for an adhesive tape (abstract; col. 2, lines 43-54). This provides for a tape that is both soft and has a high tensile strength.

Nguyen teaches the specific types of polydialkylsiloxane and acrylate release coatings (column 3, lines 11-45; column 5, line 56-column 6, line 62). This coating provides an optimized release force.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to select the laminate construction of Newman and the release coating of Nguyen to be used in the tape system of Tuschy in order to provide a soft, high tensile-strength substrate having a release coating with an acceptable release force.

Regarding the specific functional characteristics concerning peel adhesion, optimization of performance vectors within prior art conditions or through routine experimentation is not sufficient to patentably distinguish an invention over the prior art. MPEP § 2144.05.

A particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977).

In the instant case, Nguyen teaches the importance of achieving an optimal peel strength and releasability and disclose the results of peel and release testing (col. 1, lines 18-50; col. 12, lines 6-50).

Regarding claim 8, Tuschy teaches a mechanical fastener (30) disposed on the adhesive layer (24)(figure 2).

Regarding claims 2 and 9, Newman teaches a film/fibrous layer laminate (abstract).

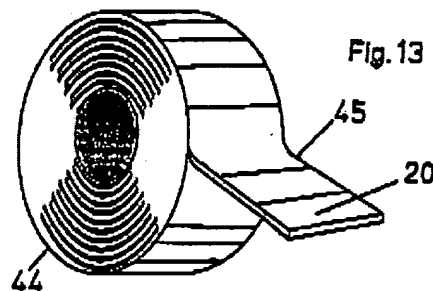
Regarding claims 3 and 10, the claimed ratio (10-15) of the average number of dialkylsiloxane units to the average number of acrylate and methacrylate groups of the polydialkylsiloxane is taught by Nguyen (col. 3, lines 11-37).

Regarding claim 4, see Nguyen col. 3, lines 11-37.

Regarding claim 5, Tuschy teaches a rubber based adhesive with a tackifying resin (page 6, line 25-page 7, line 4).

Regarding claim 6, Tuschy teaches styrene-isoprene-styrene block copolymers (page 6, line 35-page 7, line 4).

Regarding claim 7, Tuschy teaches a roll, see figure 13, infra.



Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization

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where this application or proceeding is assigned is (571) 273-8300 for formal communications.

For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart
31 July 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
